

Message

From: Maslowski, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3AA4CE2F1DBD405591D8847CC9ADEC08-SMASLWS]
Sent: 5/10/2021 7:29:35 PM
To: Roy Seneca [Seneca.Roy@epa.gov]
Subject: FW: CRW - Law360 Article

Here is a Harrisburg article in Law360. Law360's article at least tried to get opposing comments as where the Penn Live article was very one sided.

Steve Maslowski
NPDES Section
EPA Region III
215-814-2371

From: Ahearn, Devon (ENRD) <Devon.Ahearn@usdoj.gov>
Sent: Monday, May 10, 2021 3:22 PM
To: Kardeman, Lianna <Kardeman.Lianna@epa.gov>; Lazos, Pamela <Lazos.Pamela@epa.gov>; Maslowski, Steven <Maslowski.Steven@epa.gov>; Nanda, Sushila <Nanda.Sushila@epa.gov>; Williams, Janna <jannwillia@pa.gov>; Herb, Dawn <dherb@pa.gov>
Cc: Levine, Bradley (ENRD) <Bradley.Levine@usdoj.gov>
Subject: CRW - Law360 Article

Privileged and Confidential – Subject to Confidentiality Agreement

FYI – Here's the Law360 article that was published on Friday, 5/7.

Thanks,
Devon

Group Says Stalled Plan On Penn. Sewage Needs Action

By Michael Phillis

Law360 (May 7, 2021, 7:20 PM EDT) -- An environmental group asked to intervene in a federal court suit over Harrisburg, Pennsylvania, sewage overflows and said in a proposed new complaint that officials must be forced to finally make significant efforts to comply with the law.

The Lower Susquehanna Riverkeeper Association asked Thursday to step in to the 6-year-old case so it could file new claims, saying a 2015 consent decree has failed to force meaningful change and it's necessary to establish deadlines to force the system into compliance with the Clean Water Act and other laws. The group says the city and Capital Region Water, or CRW, which handles wastewater and stormwater for Harrisburg, has failed to prevent untreated sewage and stormwater overflows and that it's time to finally solve the problem.

"The ongoing sewage releases are an environmental justice problem that must be addressed so that the people of Harrisburg can safely use their own waterfront to fish and swim," Mary Greene, deputy director of the Environmental Integrity Project, which is representing the LSRA, said in a statement. She says it is "past time" that a forceful consent decree is reached.

The LSRA is requesting that the court declare that CRW is violating the Clean Water Act and its permit. They also assert that the consent decree reached in the case in 2015 doesn't do enough and that CRW should be forced into compliance.

In 2015, Harrisburg and CRW entered into a consent decree in a Clean Water Act suit with the federal government and Pennsylvania Department of Environmental Protection alleging they failed to properly operate the city's wastewater system that discharges into nearby rivers and streams. The partial settlement didn't impose civil penalties but called on the city and CRW to make upgrades to their combined wastewater and stormwater collection systems to prevent overflows.

The group argues that the 2015 agreement didn't force the construction of storage tanks that could help prevent overflows among other issues. In the intervening years, the promises in that consent decree have been shown to be empty or insufficient, according to the LSRA. And last year, elevated levels of E. coli bacteria were measured in the nearby water, according to the filing.

An intervening plan in 2018 released by CRW proposed spending more than \$300 million over two decades to reduce the overflow problem, but it would not facilitate the system's full compliance with the Clean Water Act, according to the group. The LSRA says the system releases hundreds of millions of gallons of untreated storm and sewage water annually.

"Public records show that the parties have also failed to make meaningful progress toward a final consent decree to ultimately resolve these violations," the group said. "Every day that these illicit sewage discharges and other violations continue poses risks to public health and the environment and threatens the interests of LSRA and its members."

The environmental group argues that amidst continuing untreated sewage discharge problems, the lack of an effective long-term solution is "unacceptable."

Fredric P. Andes, an attorney at Barnes & Thornburg LLP that is helping CRW in its negotiations with federal officials over a long-term control plan, said CRW has invested in improving the system. He said that discussions have been ongoing with the U.S. Environmental Protection Agency and state regulators to get a long-term plan in place, adding that those conversations have been productive.

"The concept that nothing has been done and it is stagnating is just not the case," Andes told Law360.

He said there will be opportunities for public participation as the process moves forward.

The LSRA also said in its motion to intervene that its members face harm from the continued overflows, entitling the group to intervene and file claims.

Greene said the other parties opposed their intervention request. The U.S. Department of Justice had proposed "a kind of enhanced public participation process," but that would have allowed for input "without assuming the rights and obligations of a party," she said.

"To effectuate real and lasting change, our client strongly feels it needs an official voice [regarding] how this consent decree is modified and improved going forward," Greene said in an email.

The Lower Susquehanna Riverkeeper Association is represented by Lisa Widawsky Hallowell of the Environmental Integrity Project.

The federal government as of 2018 was represented by Nancy A. Flickinger of the DOJ's Environment and Natural Resources Division.

Capital Region Water as of 2018 was represented by Steven A. Hann of Hamburg Rubin Mullin Maxwell & Lupin PC.

Harrisburg is represented by City Solicitor Neil Grover.

The case is United States of America et al. v. Capital Region Water et al., case number 1:15-cv-00291, in the U.S. District Court for the Middle District of Pennsylvania.

--Additional reporting by Linda Chiem. Editing by Jay Jackson Jr.

Devon Ahearn

Trial Attorney

Environmental Enforcement Section | ENRD | U.S. Department of Justice

Regular Mail: P.O. Box 7611, Washington, DC 20044-7611

Overnight and Courier: 150 M Street NE, Suite 2.900, Washington, DC 20002

Devon.ahearn@usdoj.gov

(202) 514-2717